

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KEITH ROSARIO,	)	
	)	
Plaintiff,	)	Civil Action No. 21-cv-208
	)	District Judge Robert J. Colville
v.	)	Magistrate Judge Maureen P. Kelly
	)	
WESTMORELAND COUNTY, PA,	)	Re: ECF No. 91
WESTMORELAND COUNTY	)	
COMMISSIONER, WESTMORELAND	)	
COUNTY PRISON, WARDEN WALTON,	)	
DEPUTY WARDEN LOWTHER, DEPUTY	)	
WARDEN SCHWARTZ, LIEUTENANT	)	
TOMASELLO, LIEUTENANT WOLFF,	)	
SERGEANT GILLETTE, SERGEANT	)	
BRADLEY, and JOHN DOES 1-6,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

Plaintiff Keith Rosario (“Plaintiff”), an inmate now incarcerated at the State Correctional Institution at Albion (“SCI-Albion”), brings this *pro se* action arising out of allegations that he was assaulted by prison officials while incarcerated at the Westmoreland County Prison (“WCP”). ECF No. 14.

Presently before the Court is Plaintiff’s “Motion of Acknowledgement,” ECF No. 91, in which he states that he has not received certain discovery responses from Defendants and other unidentified materials that he subpoenaed from non-party PrimeCare Medical Inc. (“PrimeCare”). Id. at 1-2. Plaintiff asserts that PrimeCare’s failure to respond to his subpoena “should be viewed as contempt,” and that any outstanding discovery “should be fulfilled before the end of this discovery process.” Id. at 1. Plaintiff also asks the Court to stay this action until he has received

all outstanding discovery responses and the ability to request additional discovery, as needed. Id. at 2.

In response, Defendants represent that they have timely mailed the relevant discovery responses to Plaintiff. ECF No. 94 ¶¶ 1-2. Defendants also state they received notice that certain videos they sent to Plaintiff could not be delivered via the prison's third-party mail provider, but they have since made alternate arrangements for Plaintiff to receive those videos. Id. ¶¶ 3-5. Defendants note that PrimeCare is a third party, and they do not have information about the documents that Plaintiff has requested from it. Id. ¶ 6.

Upon review, the Motion is denied. Defendants represent they have already submitted all outstanding discovery responses to Plaintiff. If Plaintiff seeks to compel those responses, then, there is nothing to compel.

As for Plaintiff's subpoena to PrimeCare, he also does not establish a right to relief. Plaintiff does not include facts demonstrating that any response is untimely, or that he effected service under Federal Rule of Civil Procedure 45.

Finally, Plaintiff's request to stay this case is denied. At Plaintiff's request, the Court has already extended the discovery deadline until February 2, 2023. ECF Nos. 89 and 90. He does not demonstrate any need for a stay or further extension of those deadlines at this time.


Accordingly, the following Order is entered:

AND NOW, this 15<sup>th</sup> day of December, 2022, IT IS HEREBY ORDERED that Motion of Acknowledgment, ECF No. 91, is DENIED.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rule 72.C.2 of the Local Rules of Court, the parties are allowed fourteen (14) days from the date of this Order to file an appeal to the District Judge which includes the basis for objection to this Order. Any appeal

is to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to file a timely appeal will constitute a waiver of any appellate rights.

BY THE COURT:

  
MAUREEN P. KELLY  
UNITED STATES MAGISTRATE JUDGE

cc: The Honorable Robert J. Colville  
United States District Judge

Keith Rosario  
MC-4878  
SCI Albion  
10745 Route 18  
Albion, PA 16475

All counsel of record via CM/ECF.